

SIKKIM



GOVERNMENT

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GOVERNMENT OF SIKKIM
LEGAL METROLOGY UNIT & CONSUMER PROTECTION CELL
FOOD & CIVIL SUPPLIES DEPARTMENT
PALZOR STADIUM ROAD
GANGTOK.737101

No. 31/LMU/F&CS

Date: 11/03/2023

NOTIFICATION

In exercise of the powers conferred by clauses (g), (j), (k), (l), (o) and (q) of sub-section (2) of section 102 of the Consumer Protection Act, 2019 (35 of 2019) and in supersession of the Sikkim State Consumer Protection Rules, 2006 in so far as they relate to matters covered under these rules, except as respects things done or omitted to be done before such supersession, the State Government hereby makes the following rules, namely:

**Short title and
commencement. -**

1. (1) These rules may be called the Sikkim Consumer Protection (Consumer Disputes Redressal Commissions) Amendment Rules, 2023.
- (2) They shall come into force on the date, of their publication in the Official Gazette.

Definitions. -

2. (1) In these rules, unless the context otherwise requires, —
 - (a) "Act" means the Consumer Protection Act, 2019 (35 of 2019);]
 - (b) "appellant" means a person who makes an appeal against the order of the State Commission or the District Commission, as the case may be;
 - (c) "authorized agent" means a person duly authorized by a party to present any complaint, appeal or reply on behalf of such party before the National Commission, the State Commission, or the District Commission, as the case may be;
 - (d) "Commission" means the District Commission or the State Commission as the case may be;

- (e) "Consumer Welfare Fund" means the Consumer Welfare Fund established by a State Government or, as the case may be, by the Central Government under section 57 of the Central Goods and Services Tax Act, 2017 (12 of 2017);
 - (f) "memorandum" means any memorandum of appeal filed by the appellant;
 - (g) "nationalized bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);
 - (h) "opposite party" means a person who answers a complaint under the Act;
 - (i) "President" means the President of the State Commission or the District Commission, as the case may be;
 - (j) "respondent" means the person who answers any memorandum of appeal;
 - (k) "section" means a section of the Act;
 - (l) "State government" means the government of Sikkim.
- (2) The words and expressions used herein not defined but defined in the Act shall have the same meanings as assigned to them in the Act.

Working days and office hours of State Commission and District Commission. -

3. The working days and office hours of the State Commission and District Commission shall be the same as that of the State Government. Provided that if the President of the State Commission is a Sitting Judge of the High Court, the working days and other office hours shall be same as that of the High Court. Provided further that if the President of the District Commission is a sitting District Judge of District and Sessions Court, the working days and other office hours shall be same as that of the Subordinate Court.

Seal and emblem. -

4. The official seal and emblem of the State Commission and District Commission shall be such as that of the State Government.

Sitting of State Commission and District Commission. -

5. The President of the State Commission and District Commission shall convene sittings of the respective Commissions as and when it may be necessary, and such sittings shall be notified by the respective Commission prior to the sittings.

Manner of authentication of goods by State and District Commission for analysis and testing. -

6. (1) The State Commission or the District Commission as the case may be, direct the complainant to provide one or more sample of the goods in clean containers with stopper properly fixed on them for the purposes of testing or analysis.
- (2) On receiving the samples of such goods, the respective Commission shall seal it and fix labels on the containers carrying the following information, namely: -

- (a) the name and address of the appropriate laboratory to whom sample shall be sent for analysis and test;
 - (b) the name and address of the Commission;
 - (c) the case number; and
 - (d) the official seal of the Commission.
- (3) The sealed sample shall be sent to the recognized laboratory by the State Commission or District Commission as the case may be.
 - (4) The recognized laboratory shall, after receiving sealed sample and examining it, forward its report to the Commission within 45 (forty-five) days or within such extended time as may be granted by the Commission, specifying the nature of the defect and date of submission of report.

Fee for making complaints. -

7. (1) Every complaint filed under sub-section (1) of section 35 or under sub-clauses (i) and (ii) of clause (a) of sub-section (1) of section 47 of the Act shall be accompanied by a fee, as specified in the table given below, in the form of crossed Demand Draft drawn on a nationalized bank or through a crossed Indian Postal Order in favor of the President of the District Commission or the Registrar of the State Commission, as the case may be, and payable at the respective place where the District Commission or the State Commission is situated, or through electronic mode as per arrangement made by the Commission concerned.
- (2) The District Commission or the State Commission, as the case may be, shall credit the amount of fee received by it under sub-rule (1) to the Consumer Welfare Fund of the State and where such Consumer Welfare Fund is not established, into the appropriate account of the State Government.

FEE TABLE

Sl. No.	Value of goods or services paid as consideration	Amount of Fee Payable
	District Commission	
1	Up to rupees five lakh	NIL
2	Above rupees five lakh and up to rupees ten lakh	₹ 200/-
3	Above rupees ten lakh and up to rupees twenty lakh	₹ 400/-
4	Above rupees twenty lakh and up to rupees fifty lakh	₹ 1,000/-
	State Commission	
5	Above rupees fifty lakh and up to rupees one crore	₹ 2,000/-
6	Above rupees one crore and up to rupees two crore	₹ 2,500/-
	National Commission	
7	Above rupees two crore and up to rupees four crore	₹ 3,000/-

8	Above rupees four crore and up to rupees six crore	₹ 4,000/-
9	Above rupees six crore and up to rupees eight crore	₹ 5,000/-
10	Above rupees eight crore and up to rupees ten crore	₹ 6,000/-
11	Above rupees ten crore	₹ 7,500/-

Manner of filing complaints electronically. -

8. The electronic filing of complaints in the State Commission and District Commission may be done through online portal <https://edaakhil.nic.in>

Additional powers of State Commission and District Commission. -

9. (1) The State Commission or the District Commission, as the case may be, shall have power to require any person, —

(a) to produce before it such book, account, document or commodity which is in the custody or under the control of such person, if it is required for the purposes of any proceedings before it, and allow the same to be examined and kept by such officer of the Commission as it may specify in this behalf;

(b) to furnish to the officer specified in clause (a), such information as may be required for the purposes of any proceedings before it.

(2) Where during any proceedings under the Act, the State Commission or the District Commission, as the case may be, has any ground to believe that any book, paper, commodity or document which may be required to be produced in such proceedings, are being or may be, destroyed, mutilated, altered, falsified or secreted, it may, by written order, authorize any officer to exercise the power of entry and search of any premises, and seizure of any book, paper, document or commodity as may be required for the purposes of such proceeding:

Provided that such seizure shall be communicated to the State Commission or the District Commission, as the case may be, as soon as it is made or within a period not exceeding 72 (seventy-two) hours of making such seizure after specifying the reasons in writing for making such seizure.

(3) The State Commission or the District Commission, as the case may be, on examination of such seized documents or commodities shall either order the retention thereof or return it to the party concerned.

Credit of amount payable for loss or injury suffered by consumers who are not identifiable conveniently. —

10. (1) Where an order is passed under clause (k) of sub-section (1) of section 39 of the Act by the District Commission or under sub-section (1) of section 49 by the State Commission directing the opposite party to pay such amount as may be determined by it on account of loss or injury suffered by a large number of consumers, who are not identifiable conveniently, such sum shall

be credited by the District Commission and the State Commission in the Consumer Welfare Fund established by the State Government.

- (2) The amount credited to the Consumer Welfare Fund of the State Government shall be utilized in accordance with the provisions of the Sikkim State Consumer Welfare Fund Scheme, 2000.

**Procedure for
filing and hearing
of appeal before
State
Commission. -**

11. (1) A Memorandum shall be presented by the appellant or his authorized agent to the State Commission in person or sent by a registered post with acknowledgment due addressed to the State Commission.
- (2) The 50% (fifty) of the awarded amount to be deposited under the second proviso to section 41 of the Act shall be in the form of crossed Demand Draft drawn on a nationalized bank in favor of the Registrar of Sikkim State Consumer Disputes Redressal Commission.
- (3) Every memorandum filed under sub-rule (1) shall preferably be typed, or be in legible handwriting, and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.
- (4) Each memorandum shall be accompanied by the certified copy of the order of the District Commission appealed against and such of the documents, as may be required to support grounds of appeal mentioned in the memorandum.
- (5) When the appeal is presented after the expiry of the period of limitation as specified in section 41 of the Act, the memorandum shall be accompanied by an application supported by an affidavit setting forth the facts on which appellant relies upon to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.
- (6) The appellant shall submit 4 (four) copies of the memorandum to the State Commission for official purposes.
- (7) On the date of hearing or any other day to which hearing may be adjourned, the parties or their authorized agents shall appear before the State Commission, and where
- (a) The appellant or his authorized agent fails to appear, State Commission may, in its discretion, either dismiss the appeal or decide it ex-parte on the merits of the case;
- (b) The respondent or his authorized agent fails to appear, the State Commission shall proceed ex-parte and decide the appeal on the merits of the case.
- (8) The appellant shall not, except by the leave of the State Commission, urge or be heard in support of any ground of appeal not set forth in the memorandum, but the State Commission in deciding the appeal, need not confine itself to the

grounds of appeal set forth in the memorandum or taken by leave of the State Commission under this rule:

Provided that the State Commission shall not rest its decision on any other grounds unless the party who may be affected thereby, has been given, at least the opportunity of being heard by the State Commission.

- (9) No adjournment shall ordinarily be granted at any stage by the State Commission, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the State Commission: Provided that the State Commission shall not ordinarily grant more than one adjournment and shall ensure, as far as possible, that the appeal is decided within 90 (ninety) days from the date of admission: Provided further that in the event of an appeal being disposed of after the period specified in the first proviso, the State Commission shall record in writing the reasons for the same at the time of disposal of the said appeal.
- (10) The order of the State Commission on appeal shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties concerned free of cost.

**Number of
Members in State
Commission. -**

- 12. The State Commission shall consist of a President and not less than 4 (four) members of whom at least 1 (one) member shall be a woman.

**Number of
Members in
District
Commission. -**

- 13. The District Commission shall consist of a President and not less than 2 (two) members of whom at least 1 (one) member shall be a woman.

**Furnishing of
information by
State
Commission. -**

- 14. The State Commissions shall furnish information to the State Government on a quarterly basis in the form as specified in Schedule I to these rules.

Schedule I

(Rule 14)

Name of the Commission: Quarterly Report

1. Information regarding Building/Staff of the State Commission and District Commissions as on _____

Name of Consumer Commissions	Building				Staff (Yes/No)	
	Owned/ Govt. Building	Rented	Space (Yes/No)		Sufficient	Insufficient
			Sufficient	Insufficient		
STATE COMMISSION						
1.						
DISTRICT COMMISSIONS						
1.						

2. Information regarding Number / Functional / Non-functional of District Commissions.

No. of Districts	No. of District Commissions	No. of Additional District Commissions	Functional	Non-Functional	Remarks, if any (name of the non-functional DCs)
Reasons for Non-functioning:					

3. Information regarding Vacancy Position in the State Commission and District Commissions. Please put up the Number of vacancies, if any as on the end of Quarter:

State Commission		District Commissions		Remarks (Name of Districts)	Date from which the vacancy has arisen
President	Member	(Names of Districts)	Members		

4. No. of Cases Filed / Disposed of / Pending since inception (as on end of quarter).

Name of Consumer Commissions		No. of cases Filed since inception	No. of cases Disposed of since inception	No. of cases pending
STATE COMMISSION				
Total:				
DISTRICT COMMISSIONS				
1.				
TOTAL (For District Commission):				

5. Declaration regarding Head of Department / Head of Office.

Whether President of State Commission is Head of Department (Yes/No)	Whether President of District Commissions is Head of Office (Yes/No)

6. Age-wise Pendency

Consumer Commissions	Cases pending for more than 5 years	Cases pending for more than 3 years	Cases pending for more than 2 years
State Commission			
District Commissions			

7. Information regarding Honorarium / Remuneration being paid to Hon'ble presidents & Members of the State Commission / District Commissions as on end of Quarter:

State Commission		District Commissions	
President	Member	President	Member

8. No. of cases filed, disposed & pending, year-wise (Past five years)

Year	STATE COMMISSIONS			DISTRICT COMMISSIONS		
	Cases filed in the year	Cases disposed of in the year	Cases pending at the end	Cases filed in the year	Cases disposed of in the year	Cases pending at the end
2018	-	-	-			
2019	-	-	-			
2020	-	-	-			
2021	-	-	-			
2022	-	-	-			

9. No. of cases disposed of in Lok Adalat:

Name of Consumer Commissions		No. of cases disposed of since inception
STATE COMMISSION		
1.		
Total:		
DISTRICT COMMISSIONS		
1.		
TOTAL (For District Commission):		

10. Status of e-Daakhil (E-filing):

Consumer Commissions	No. of cases filed through e-Daakhil portal
State Commission (including Circuit Bench, if any)	
District Commissions (Total)	
Total	

11.

1.	Performance of State Commission and District Commission		
I	(a) Total cases filed since inception	State Commission	District Commission
		-	
	(b) Cases disposed of	-	
	(c) Cases disposed of within prescribed time norms	-	
	(d) Number of cases disposed of by Lok Adalat method	-	
II	Detailed break up of cases pending (give number of cases)	-	District Commission
	(a) Over 3 months up to 1 year	-	
	(b) Over 1 year up to 2 years	-	
	(c) Over 2 years up to 5 years	-	
	(d) Over 5 years	-	
III	Cases disposed of within time norms (give number)		District Commission
	(a) Cases received after 15 March'02		
	(b) Cases disposed of within time norms out of (a) above (Number and %)		
2.	Implementation of CONFONET Project		
I	Computer Hardware/Software has	State Commission	District Commission (Numbers)
	(a) been received		
	(b) been installed		
	(c) been functional		
II	Activities being done through computers		
	(a) Is Case Monitoring System Installed & Operational;		
	(b) Has the live case data been entered?		
	(c) Whether cause list and judgement being posted on the website		
3.	Training		

(a)	Training of Members/President in Indian Institute of Public Administration	To be trained in the year as per training plan	Trained so far	During the quarter
(b)	Training of State/District level Officers in BIS Training Institute			
(c)	Training under CONFONET			
	(a) President and Members			
	(b) Other Staff			
(d)	Any other Training			

Name and Telephone/Fax No./E-mail address of the person to be approached for any clarification/further information in this regard:

Name:

Designation:

Telephone No.: (STD Code) 03592-

Fax:

Mobile No.:

Email ID:

Deepa Rani Thapa, SCS
Secretary
Food and Civil Supplies Department
Government of Sikkim